IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3169 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NASMED JOOTH SEVA SAHAKARI MANDALI LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3169 of 2002

MR KS JHAVERI for Petitioners No. 1-8

MR K.P. RAWAL, A.G.P for Respondents No. 1-3

MR SK JHAVERI for Respondent No. 4

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 18/03/2002

ORAL JUDGEMENT

Rule. Service of rule is waived by learned A.G.P. Shri K.P. Rawal for respondents nos. 1,2 and 3

whereas learned advocate Shri S.K. Jhaveri waives service of rule for respondent no.4. Looking to the facts of the case, at the request made by the learned advocates, the petition is finally heard today. The grievance which has been made in the petition by the petitioner is with regard to deletion of names of members of the managing committee of the petitioner societies in the final voters' list.

It has been submitted by learned advocate Shri K.S. Jhaveri appearing for the petitioners that the names of the concerned voters had been deleted after the provisional voters list was published. According to him, it is pertinent to note that the voters, whose names had been deleted, were not given any show cause notice or any hearing. In other words, without affording any opportunity of being heard, names of the said voters had been deleted by respondent no. 2. It has been submitted by learned advocate Shri K.S. Jhaveri that the said action of respondent no. 2 is not only in violation of the statutory rules but is also in violation of the settled principles of natural justice. According to him, the said action is illegal and respondent no. 2 should include names of the said voters so that the said voters can cast their votes at the election which is to be held on 22nd April, 2002.

In pursuance of notice issued by this Court, learned A.G.P. Shri K.P. Rawal has appeared and has very fairly submitted that the names of the concerned voters could not have been deleted without affording an opportunity of being heard to them. It has also been submitted by him that in pursuance of an order passed by this Court dated 8th March, 2002, respondent no. 2 has included names of the concerned voters in the voters' list at Seral Nos. 158 to 243. In other words, according to him, the mistake committed has been now rectified and, therefore, there is no ground for making a grievance for the petitioners. He has placed on record a copy of letter dated 15th March, 2002 addressed to him by respondent no. 2. The said letter clearly reveals that names of the concerned voters have been now included in the voters' list.

In view of the facts stated by learned A.G.P. Shri K.P. Rawal and looking to the action taken by respondent no.2, the grievance ventilated in the petition now does not survive. The list of voters has now been finally published and names of the concerned voters have also been included in the said list. In the circumstances, the concerned voters shall be in a

position to cast their votes at the ensuing election.

Looking to the above facts, as grievance of the petitioners has been now redressed, the petition would not survive. Looking to the fact, that the impugned illegality has been cured in pursuance of an interim order passed by this Court, rule is made absolute with no orders as to costs. Ad-interim relief granted earlier stands vacated. Notice is discharged.

Direct service is permitted.

(A.R. DAVE,J.)

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